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HOUSE BILL 614

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BRETT D. JOHNSON

AN ACT

RELATING TO CRIMINAL SENTENCING; REQUIRING A CAPITAL FELONY  
OFFENDER OR A REPEAT SEXUAL OFFENDER TO REMAIN INCARCERATED FOR  
THE ENTIRETY OF HIS NATURAL LIFE; AMENDING A SECTION OF THE NMSA  
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-21-10 NMSA 1978 (being Laws 1980,  
Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

A. An inmate of an institution who was sentenced to  
life imprisonment as the result of the commission of a capital  
felony [~~who was convicted of three violent felonies and  
sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978~~]  
or who was convicted of two violent sexual offenses and  
sentenced pursuant to Sections 31-18-25 and 31-18-26 NMSA 1978

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1 ~~[becomes eligible for a parole hearing after he has served~~  
2 ~~thirty years of his sentence. Before ordering the parole of an~~  
3 ~~inmate sentenced to life imprisonment, the board shall]~~ is not  
4 eligible for parole and shall remain incarcerated for the  
5 entirety of his natural life.

6 B. An inmate of an institution who was convicted of  
7 three violent felonies and sentenced to life imprisonment  
8 pursuant to the provisions of Sections 31-18-23 and 31-18-24  
9 NMSA 1978 is eligible for a parole hearing after he has served  
10 thirty years of his sentence. Before ordering the parole of an  
11 inmate sentenced to life imprisonment pursuant to the provisions  
12 of Sections 31-18-23 and 31-18-24 NMSA 1978, the board shall:

13 (1) interview the inmate at the institution  
14 where he is committed;

15 (2) consider all pertinent information  
16 concerning the inmate, including:

17 (a) the circumstances of the ~~[offense]~~  
18 offenses;

19 (b) mitigating and aggravating  
20 circumstances;

21 (c) whether a deadly weapon was used in  
22 the commission of the ~~[offense]~~ offenses;

23 ~~[(d) whether the inmate is a habitual~~  
24 ~~offender;~~

25 ~~(e)]~~ (d) the reports filed under Section

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1 31-21-9 NMSA 1978; and

2 [(f)] (e) the reports of such physical  
3 and mental examinations as have been made while in prison;

4 (3) make a finding that a parole is in the best  
5 interest of society and the inmate; and

6 (4) make a finding that the inmate is able and  
7 willing to fulfill the obligations of a law-abiding citizen.

8 If parole is denied, the inmate sentenced to life  
9 imprisonment shall again become entitled to a parole hearing at  
10 two-year intervals. The board may, on its own motion, reopen  
11 any case in which a hearing has already been granted and parole  
12 denied.

13 ~~B. Unless the board finds that it is in the best  
14 interest of society and the parolee to reduce the period of  
15 parole, a person who was convicted of a capital felony shall be  
16 required to undergo a minimum period of parole of five years.  
17 During the period of parole, the person shall be under the  
18 guidance and supervision of the board.]~~

19 C. An inmate who was convicted of a first, second or  
20 third degree felony and who has served the sentence of  
21 imprisonment imposed by the court in a corrections facility  
22 designated by the corrections department shall be required to  
23 undergo a two-year period of parole. An inmate who was  
24 convicted of a fourth degree felony and who has served the  
25 sentence of imprisonment imposed by the court in a corrections

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1 facility designated by the corrections department shall be  
2 required to undergo a one-year period of parole. During the  
3 period of parole, the person shall be under the guidance and  
4 supervision of the board.

5 D. Every person while on parole shall remain in the  
6 legal custody of the institution from which he was released, but  
7 shall be subject to the orders of the board. The board shall  
8 furnish to each inmate as a prerequisite to his release under  
9 its supervision a written statement of the conditions of parole  
10 that shall be accepted and agreed to by the inmate as evidenced  
11 by his signature affixed to a duplicate copy to be retained in  
12 the files of the board. The board shall also require as a  
13 prerequisite to release the submission and approval of a parole  
14 plan. If an inmate refuses to affix his signature to the  
15 written statement of the conditions of his parole or does not  
16 have an approved parole plan, he shall not be released and shall  
17 remain in the custody of the corrections facility in which he  
18 has served his sentence, excepting parole, until such time as  
19 the period of parole he was required to serve, less meritorious  
20 deductions, if any, expires, at which time he shall be released  
21 from that facility without parole, or until such time that he  
22 evidences his acceptance and agreement to the conditions of  
23 parole as required or receives approval for his parole plan or  
24 both. Time served from the date that an inmate refuses to  
25 accept and agree to the conditions of parole or fails to receive

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1 approval for his parole plan shall reduce the period, if any, to  
2 be served under parole at a later date. If the district court  
3 has ordered that the inmate make restitution to a victim as  
4 provided in Section 31-17-1 NMSA 1978, the board shall include  
5 restitution as a condition of parole. The board shall also  
6 personally apprise the inmate of the conditions of parole and  
7 his duties relating thereto.

8 E. When a person on parole has performed the  
9 obligations of his release for the period of parole provided in  
10 this section, the board shall make a final order of discharge  
11 and issue him a certificate of discharge.

12 F. Pursuant to the provisions of Section 31-18-15  
13 NMSA 1978, the board shall require the inmate as a condition of  
14 parole:

15 (1) to pay the actual costs of his parole  
16 services to the adult probation and parole division of the  
17 corrections department for deposit to the corrections department  
18 intensive supervision fund not exceeding one thousand twenty  
19 dollars (\$1,020) annually to be paid in monthly installments of  
20 not less than fifteen dollars (\$15.00) and not more than eighty-  
21 five dollars (\$85.00), subject to modification by the adult  
22 probation and parole division on the basis of changed financial  
23 circumstances; and

24 (2) to reimburse a law enforcement agency or  
25 local crime stopper program for the amount of any reward paid by

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1 the agency or program for information leading to his arrest,  
2 prosecution or conviction.

3 G. The provisions of this section shall apply to all  
4 inmates except geriatric, permanently incapacitated and  
5 terminally ill inmates eligible for the medical and geriatric  
6 parole program as provided by the Parole Board Act. "

7 Section 2. EFFECTIVE DATE. -- The effective date of the  
8 provisions of this act is July 1, 1997.

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